

Regular Session, 2012

SENATE BILL NO. 4

BY SENATORS MORRELL, DORSEY-COLOMB, MILLS, PERRY AND WHITE AND
REPRESENTATIVE LEGER

CRIME/PUNISHMENT. Criminalizes the failure to report the sexual abuse of a child. (gov
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AN ACT

To amend and reenact R.S. 14:403(A) and the introductory paragraph of Children's Code
Article 603(15) and (d) and 610(A) and (E)(1) and (2), and to enact Children's Code
Article 603(15)(j), relative to reporting abuse of children; to provide for mandatory
reporting of sexual abuse of a child; to provide for definition; to provide for
penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:403(A) is hereby amended and reenacted to read as follows:

§403. Abuse of children; reports; waiver of privilege

A.(1)(a) Any person who, under Children's Code Article 609(A), is required
to report the abuse or neglect ~~or sexual abuse~~ of a child and knowingly and willfully
fails to so report shall be ~~guilty of a misdemeanor and upon conviction shall be~~ fined
not more than five hundred dollars or imprisoned for not more than six months, or
both.

**(b) Any person who, under Children's Code Article 609(A), is required
to report the sexual abuse of a child, or the abuse or neglect of a child which
results in the serious bodily injury, neurological impairment, or death of the**

1 child, and the person knowingly and willfully fails to so report shall be fined not
2 more than three thousand dollars or imprisoned, with or without hard labor,
3 for not more than three years, or both. For purposes of this Subparagraph,
4 "serious bodily injury" means injury involving protracted and obvious
5 disfigurement or protracted loss or impairment of the function of a bodily
6 member, organ, or mental faculty, or substantial risk of death.

7 (2) Any person, any employee of a local child protection unit of the
8 Department of Children and Family Services, any employee of any local law
9 enforcement agency, any employee or agent of any state department, or any school
10 employee who knowingly and willfully violates the provisions of Chapter 5 of Title
11 VI of the Children's Code, or who knowingly and willfully obstructs the procedures
12 for receiving and investigating reports of child abuse or neglect or sexual abuse, or
13 who discloses without authorization confidential information about or contained
14 within such reports shall be ~~guilty of a misdemeanor and upon conviction shall be~~
15 ~~fined not more than five hundred dollars or imprisoned for not more than six months,~~
16 ~~or both.~~

17 (3) Any person who reports a child as abused or neglected or sexually abused
18 to the department or to any law enforcement agency, knowing that such information
19 is false, shall be ~~guilty of a misdemeanor and upon conviction shall be~~ fined not
20 more than five hundred dollars or imprisoned for not more than six months, or both.

21 (4)(a) Notwithstanding the provisions of Paragraph (1) of this
22 Subsection, any person who is eighteen years of age or older who witnesses
23 sexual abuse of a child and knowingly and willfully fails to report the sexual
24 abuse to law enforcement or to the Department of Children and Family Services
25 as required by Children's Code Article 610, shall be fined not more than ten
26 thousand dollars or imprisoned with or without hard labor for not more than
27 five years, or both.

28 (b) For purposes of this Paragraph, "sexual abuse" shall include but is
29 not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2,

43.3, 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 86, 89, 89.1, and the attempt to
commit any of these crimes pursuant to R.S. 14:27.

* * *

Section 2. The introductory paragraph of Children's Code Article 603(15) and (d)
and 610(A) and (E)(1) and (2) are hereby amended and reenacted and Children's Code
Article 603(15)(j) is hereby enacted to read as follows:

Art. 603. Definitions

As used in this Title:

* * *

(15) "Mandatory reporter" is any of the following individuals ~~performing
their occupational duties:~~

* * *

(d) "Teaching or child care provider" is any person who provides or assists
in the teaching, training and supervision of a child, including any public or private
teacher, teacher's aide, instructional aide, school principal, school staff member, bus
driver, coach, professor, technical or vocational instructor, technical or
vocational school staff member, college or university administrator, college or
university staff member, social worker, probation officer, foster home parent, group
home or other child care institutional staff member, personnel of residential home
facilities, a licensed or unlicensed day care provider, or any individual who provides
such services to a child in a voluntary or professional capacity.

* * *

(j) "Organizational or youth activity provider" is any person who
provides organized activities for children, including administrators, employees,
or volunteers of any day camp, summer camp, youth center, or youth recreation
programs or any other organization that provides organized activities for
children.

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Art. 610. Reporting procedure

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(2) ~~A local child protection unit~~ **The department** shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the ~~local child protection unit~~ and the law enforcement agency.

department and law enforcement agency. The ~~local child protection unit~~
department also shall report all cases of child death which involve a suspicion of
 abuse or neglect as a contributing factor in the child's death to the local and state law
 enforcement agencies, the office of the district attorney, and the coroner.

* * *

Section 3. This Act shall become effective upon signature by the governor or, if not
 signed by the governor, upon expiration of the time for bills to become law without signature
 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 effective on the day following such approval.

The original instrument was prepared by Michelle Ducharme. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Danielle Doiron.

DIGEST

Morrell (SB 4)

Present law provides that a mandatory reporter who knowingly and willfully fails to report
 the abuse, neglect, or sexual abuse of a child is to be fined not more than five hundred
 dollars or imprisoned for not more than six months, or both.

Present law provides for a definition of "mandatory reporter" and provides for a list of
 certain persons, who in performing their occupational duties, are considered mandatory
 reporters.

Present law further provides that teachers or child care providers are mandatory reporters
 and include any person who provides training and supervision of a child, including any
 public or private teacher, teacher's aide, instructional aide, school principal, school staff
 member, social worker, probation officer, foster home parent, group home or other child care
 institutional staff member, personnel of residential home facilities, a licensed or unlicensed
 day care provider, or any individual who provides such services to a child.

Proposed law provides for the following:

1. Provides that a mandatory reporter is to be fined not more than \$500 or imprisoned
 for not more than six months, or both, only for the knowing and willful failure to
 report the abuse or neglect of a child.
2. Provides that a mandatory reporter who knowingly and willfully fails to report the
 sexual abuse of a child, or the abuse or neglect of a child which results in serious
 bodily injury, neurological impairment, or death of a child, is to be fined not more
 than \$3,000 or imprisoned, with or without hard labor, for not more than three years,
 or both. Proposed law defines "serious bodily injury."
3. Provides that any person who is 18 years of age or older who witnesses the sexual
 abuse of a child and knowingly or willfully fails to report the abuse to law
 enforcement or the Dept. of Public Safety and Corrections is to be fined not more

- than \$10,000 or imprisoned, with or without hard labor, for not more than five years, or both. Proposed law defines "sexual abuse" for purposes of this provision as including rape, aggravated rape, forcible rape, simple rape, sexual battery, second degree sexual battery, oral sexual battery, human trafficking, trafficking of children for sexual purposes, incest, aggravated incest, felony carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile or a person with a physical or mental disability, enticing persons into prostitution, crime against nature, aggravated crime against nature, and the attempt to commit any of those offenses.
4. Removes the provision that requires an individual in the list of present law "mandatory reporters" to be "performing their occupational duties" in order to be considered a "mandatory reporter".
 5. Expands the definition of "teaching or child care provider" to include any person who assists in the teaching, training, and supervision of a child, bus drivers, coaches, professors, technical or vocational instructors, technical or vocational school staff members, college or university administrators, college or university staff members, any person who provides teaching or child care services in a voluntary capacity.
 6. Adds "organizational or youth activity provider" to the list of "mandatory reporters."

Present law requires reports of child abuse or neglect to be made to the local child protection unit of the Dept. of Children and Family Services (DCFS).

Proposed law amends present law and requires the reporting of child abuse or neglect to be made to DCFS through the designated state child protection reporting hotline telephone number.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:403(A) and Ch.C. Art. 603(15)(intro para) and (d), 610(A) and (E)(1) and (2); adds Ch.C. Art. 603(15)(j))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill.

1. Adds provisions relative to "mandatory reporter" reporting requirements and penalties for knowingly and willfully failing to report sexual abuse of a child or abuse or neglect of a child resulting in serious bodily injury, neurological impairment, or death.
2. Adds provisions and definitions relative to "sexual abuse," "serious bodily injury," and "teaching or child care provider."
3. Adds "organizational or youth activity provider" to the list of "mandatory reporters."
4. Adds requirement that the reporting of child abuse or neglect be made to DCFS through the designated state child protection reporting hotline telephone number.

Senate Floor Amendments to engrossed bill.

1. Adds age requirement of eighteen years or older to "mandatory reporter" provision for a person who witnesses sexual abuse of a child and knowingly and willfully fails to report such abuse.
2. Adds to the list of offenses included within the definition of "sexual abuse" enticing persons into prostitution and the attempt to commit any of the enumerated offenses.